

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KURT BENSHOOF,

Petitioner,

v.

WARDEN,

Defendant.

CASE NO. 2:24-cv-1110-JNW

ORDER DENYING A CERTIFICATE  
OF APPEALABILITY

This matter comes before the Court on a limited remand from the United States Court of Appeals for the Ninth Circuit. Dkt. No. 32. Having reviewed the relevant record, the Court DENIES Petitioner Kurt Benshoof a certificate of appealability.

Benshoof moved for habeas relief under 28 U.S.C. § 2241. Dkt. No. 7. The Court dismissed Benshoof's habeas petition without prejudice on January 17, 2025. Dkt. Nos. 28, 29. The Court found that "there's no factual support . . . to conclude that *Younger* abstention is inappropriate" and that "Benshoof has not provided . . . enough information to conclude that he has exhausted [his state remedies]." Dkt. No. 28 at 4–5. A few days later, on January 21, 2025, Benshoof filed a notice of


1 appeal to the Ninth Circuit. Dkt. No. 30. Benshoof also requested a certificate of  
2 appealability from this Court arguing that he has “made a substantial showing of  
3 denial of constitutional rights[.]” Dkt. No. 31 at 1.

4 A petitioner seeking relief from pretrial detention under 28 U.S.C. § 2241  
5 needs a certificate of appealability under 28 U.S.C. § 2253(c)(1). *See Wilson v.*  
6 *Belleque*, 554 F.3d 816, 825 (9th Cir. 2009) (“[A] state prisoner who is proceeding  
7 under § 2241 must obtain a [certificate of appealability] under § 2253(c)(1)(A) in  
8 order to challenge process issued by a state court.”). A certificate of appealability  
9 may issue “only if the applicant has made a substantial showing of the denial of a  
10 constitutional right.” 28 U.S.C. § 2253(c)(2). To obtain a certificate of appealability  
11 “[w]hen the Court denies a claim on procedural grounds, the petitioner must show  
12 that ‘jurists of reason would find it debatable whether the petition states a valid  
13 claim of denial of a constitutional right and that jurists of reason would find it  
14 debatable whether the district court was correct in its procedural ruling.’” *Johnson*  
15 *v. Bennett*, No. C23-5188 BHS, 2023 WL 2772408, at \*1 (W.D. Wash. Apr. 4, 2023)  
16 (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

17 Here, Benshoof has not made such a showing. As the Court found in its  
18 previous order, Benshoof has not provided information to establish an exception to  
19 the *Younger* abstention doctrine or to conclude that he has exhausted his state  
20 remedies. No reasonable jurist could conclude that the Court is incorrect in its  
21 procedural ruling. Thus, a certificate of appealability is unwarranted in this case.

22 Accordingly, the Court DENIES Benshoof a certificate of appealability.  
23

Dated this 3rd day of February, 2025.

  
Jamal N. Whitehead  
United States District Judge